

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TIMOTHY NOER,

Defendant.

8:03CR134

ORDER

Defendant Timothy Noer (Noer) appeared before the court on July 25, 2007, on the Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 40). Noer was represented by Wesley S. Dodge and the United States was represented by Assistant U.S. Attorney Maria R. Moran. Through his counsel, Noer waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Report alleges probable cause, and Noer should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon.

The government moved for detention. Through counsel, Noer presented no evidence nor requested a detention hearing. Since it is Noer's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Noer's proffer has failed to carry his burden, and Noer should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 1:30 p.m. on August 17, 2007**. Defendant must be present in person.
2. Defendant Timothy Noer is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;
3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and
4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 25th day of July, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge